

<b>USCG / ECOLOGY MOA</b>	<b>Protocols Manual</b>	Procedure: 5 Page: Page 1 of 5 Revision: 0
<b>Investigations</b>		

## 1. PURPOSE/SCOPE

The purpose of the investigations protocol is to coordinate investigative operations to maximize the effectiveness of coordinated USCG District Thirteen (“USCG”) and the Washington State Department of Ecology (“Ecology”) resources devoted to safe marine transportation and environmental protection. This protocol is also expected to leverage resources by bringing the diverse expertise of USCG and Ecology inspectors together to better determine the circumstances and underlying causes of oil spills and marine accidents that pose a substantial threat of spills, while avoiding undue duplication of effort.

Instructions contained in this procedure apply to investigations involving vessels and facilities in spills or incidents posing a substantial threat of a spill to navigable waters of the State of Washington. In instances where the USCG and Ecology undertake an investigation of the same spill or incident posing a substantial threat of a spill from a vessel and facility, they will coordinate their investigations, relative to gathering of information and obtaining statements and conducting interviews. Each agency will develop case conclusions and recommendations independently

## 2. AUTHORITY/REFERENCES

Memorandum of Agreement on Oil Pollution Prevention and Response between the Commander, Thirteenth Coast Guard District and the State of Washington executed May 25, 2001. Section VIII- Investigations and Enforcement

1. The Parties agree to collaborate as appropriate on investigations of oil spills and other vessel and facility incidents of mutual interest that affect State waters to make best use of limited resources.
2. Each Party recognizes the importance of developing lessons learned from investigations of vessel and facility incidents, and recognizes the importance of developing these lessons through collaborative information gathering and analysis.

### *Ecology*

#### Statutes

RCW 43.21I.005  
 RCW 43.21I.010  
 RCW 43.21I.030  
 RCW 43.21I.040  
 RCW 88.46.921  
 RCW 88.46.170

#### Findings

Office of Marine Safety  
 Administrator’s Powers  
 Authority to administer oaths and issue subpoenas  
 Office of Marine Safety Abolished  
 Field Operations Program

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RCW 90.56.270	Enforcement of Contingency Plans
RCW 90.56.350	Investigation, Removal, Containment, Treatment, or Dispersal of Oil and Hazardous Substances
RCW 90.56.400	Department Investigation of Circumstances of Entry of Oil...
RCW 90.56.410	Right of Entry and Access to Records Pertinent to Investigations

#### Regulations

None

#### Documents/Forms

Incident Report Form & Recommendation for Investigation  
 Incident Investigation Summary Form  
 Investigation Findings/Findings of Fact  
 Spill Incident Report Workbook (ECY 050-41)

#### **USCG**

##### Statutes

14 USC 89	Law Enforcement
14 USC 93 (e)	Commandant, General Powers
46 USC 6101	Marine Casualties and Reporting
46 USC 6301	Investigation of Marine Casualties
46 USC 6304	Subpoena Authority
46 USC 6305	Reports of Investigations
46 USC 6308	Information barred in legal proceedings
46 USC 3315	Disclosure of defects and protection of informants

#### Regulations

33 CFR 151.07 (d)	COTP/OCMI//MSO Commanding Officer Subpoena authority
49 CFR 1.46 (uu) (4)	Delegations to the Commandant of the Coast Guard- Marine Casualties
46 CFR 4.03-30	Investigating Officer
46 CFR 4.07-1	Commandant or District Commander to order investigation
46 CFR 4.07-5	Investigating Officers, Powers of
46 CFR 4.07-10	Report of Investigation

#### Documents/Forms

Form CG-2692 Report of Marine Accident, Injury or Death  
 Form CG-2692A Barge Addendum  
 Form CG-2692B Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident

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### 3. EFFECTIVE DATE/POINTS OF CONTACT

This protocol will become effective upon signature of both parties.

The following persons will serve as points of contact for questions concerning this protocol and its implementation:

#### ***Ecology***

Investigation Coordinator, Spills Program

Phone: (360) 407-7482

Fax: (360) 407-7288

Mailing Address: Washington Department of Ecology, Spills Program, P.O. Box 47600, Olympia, WA 98504-7600

#### ***USCG***

MSO Portland, Senior Investigating Officer (SIO)

Phone: (503) 240-9312

Fax: (503) 240-9345

Mailing Address: USCG, MSO, 6767 N. Basin Ave., Portland, OR 97217

MSO Puget Sound, Senior Investigating Officer (SIO)

Phone: (206) 217-6250

Fax: (206) 217-6345

Mailing Address: USCG, MSO Puget Sound, 1519 Alaskan Way S., Seattle, WA 98134-1192

### 4. POLICIES

- It is the policy of the USCG and Ecology to coordinate investigations of vessel and facility spills and substantial threats of spills, when both agencies are investigating the same spill or incident, to avoid duplication of effort to the maximum extent possible.
- It is the policy of the USCG and Ecology to treat any materials shared as sensitive investigative materials, which shall not be further disseminated without the express permission of the originating agency, while the investigation is ongoing.
- It is the policy of the USCG and Ecology that documents shared with Ecology will be done pursuant to the Disclosure of Records protocol.
- It is the policy of the USCG and Ecology to implement prompt sharing of evidence collected during investigations.
- It is the policy of the USCG and Ecology to coordinate initial and follow-up interviews and site visits during the course of an investigation, to the extent practicable.
- It is the policy of the USCG and Ecology that the collection of evidence and samples will be jointly coordinated to reduce redundancy. Where oil spill samples are to be taken and

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there is any likelihood of potential criminal prosecution of the case, every effort should be made to avoid sending duplicate or split samples to different labs for analysis.

- It is the policy of the USCG and Ecology to communicate during the course of investigations to share observations and areas of mutual concern.
- It is the policy of the USCG and Ecology to implement prompt sharing of investigation reports on cases of common interest and findings once an investigation is complete.
- It is the policy of the USCG and Ecology to regularly review causal data identified during investigations for the purposes of identifying unsafe practices commonly encountered and to jointly bring these unsafe practices to the inspection programs of their respective organizations.

## 5. STANDARD OPERATING PROCEDURES

### *Operational Task Summary Matrix*

Task	USCG		WDOE	
	SIO	Investigating Officer (IO)	Invest. Coord.	Investigator
A. Sharing of evidence during investigations	A	P	A	P
B. Coordinate initial and follow-up interview and site visits during investigations	A	P	A	P
C. Share observations and concerns during investigations	A	P	A	P
D. Share investigation reports upon completion of investigation	P		P	
E. Meet at least twice a year to review investigation results and causal data	P		P	
E. Bring unsafe practices (causal factors) to the attention of respective inspection programs and monitor protocol effectiveness	P	A	P	A

Key: P = Primary Responsibility, A = Assist

### *Frequency of Communication*

- SIOs and Investigation Coordinator transmit respective investigation reports (in mutually agreeable form) upon completion of investigation where both parties are investigating.
- SIOs and Investigation Coordinator meet twice a year to review causal data identified during investigations for the purposes of identifying unsafe practices commonly encountered and to jointly bring these unsafe practices to the inspection programs of the organizations.

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C. SIOs and Investigation Coordinator discuss protocol effectiveness annually. This may be conducted in conjunction with previously listed meetings.

***USCG Task Detail***

The Senior Investigating Officers will oversee the following tasks:

- A. Information collected by Investigating Officers during the course of joint investigations is transmitted to Ecology investigators.
- B. Investigation reports are transmitted to Ecology's Investigation Coordinator upon completion of the investigation.

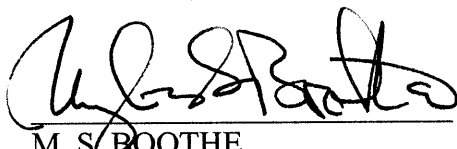
***Ecology Task Detail***

The Investigation Coordinator will oversee the following tasks:

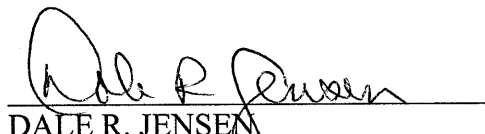
- A. Information collected by investigators during the course of joint investigations is transmitted to USCG IOs.

Investigation reports are transmitted to USCG's SIOs upon completion of the investigation.

**6. APPROVAL**



M. S. BOOTHE  
United States Coast Guard  
Thirteenth Coast Guard District  
Chief, Marine Safety Division



DALE R. JENSEN  
Washington State Department of Ecology  
Spills Program Manager

DATE: 5/30/2003

DATE: 5-30-03